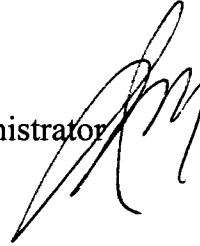


COUNTY OF YORK

MEMORANDUM

DATE: October 13, 2005 (BOS Mtg. 10/25/2005)
TO: York County Board of Supervisors
FROM: James O. McReynolds, County Administrator
SUBJECT: Procurement Policies



Staff has completed its annual review of the Procurement Policies. To assist you in your review a copy of proposed Ordinance No. 05-24 is transmitted with this memorandum, and all proposed revisions are noted.

The three changes are outlined below and indicated in the accompanying proposed ordinance with underline. The changes proposed are minimal and are the result of actions taken by the General Assembly to change the Virginia Public Procurement Act (VPPA). The State is scheduled to consider changes to the Public Private Education Facilities and Infrastructure Act in November. If changes that will require further amendment to the County ordinance are made, we will bring them before you at a later date.

Section 1-4g(2): Definitions: Competitive Sealed Bidding. The Commonwealth made newspaper ads for invitations for bid (IFB) optional several years ago; although the County policy has continued to require them. Newspaper advertisement costs, however, have increased over 300% during the last few years. Last fiscal year we spent over \$14,000 in advertisements for solicitations (Note that Requests for Proposals are still recommended to be advertised by the VPPA). Staff recommends we phase out requiring newspaper advertisement of IFBs. Public posting of IFBs on Cable 46, the County web site, direct mailing, email subscriptions and posting on the Commonwealth procurement site will continue. A recent email survey to the Virginia Association of Purchasing membership found that many localities throughout the Commonwealth have already dropped newspaper ads for IFBs for the same reasons. Staff believes we will continue to have sufficient competition for projects without requiring newspaper ads for IFBs.

Section 3-17: Approvals. Change parenthetical phrase in second sentence to read: "(excepting the purchase or vehicles for the Department of General Services' Vehicle & Equipment Maintenance Division, wherein the cost of a single unit does not exceed \$30,000, and acquisition of power-related Public Utility services; such purchases, subject to fund availability, may be made without separate specific Approving Authority)." This will exempt 'Public Utility services' (e.g. Va. Power installations for new sub-divisions; which are already exempt from competition) from requiring separate specific Board approval.

Section 3-22: Claims. Delete the existing paragraph and replace with (rewritten) VPPA sections 2.2-4363, paragraphs C through E:

1. Contractual claims, whether for money or other relief, shall be submitted in writing to the Purchasing Agent no later than 60 days after receipt of final payment; however, written notice of the contractor's intention to file a claim shall be given at the time of the occurrence or at the beginning of the work upon which the claim is based.
2. No written decision denying a claim or addressing issues related to the claim shall be considered a denial of the claim unless the written decision is signed by the public body's chief administrative officer or his designee. The contractor may not institute legal action prior to receipt of the final written decision on the claim unless the public body fails to render a decision within 90 days of submission of the claim. Failure of the public body to render a decision within 90 days shall not result in the contractor being awarded the relief claimed or in any other relief or penalty. The sole remedy for the public body's failure to render a decision within 90 days shall be the contractor's right to institute immediate legal action.

A contractor may not invoke any administrative claims procedures adopted by the public body, if any, or institute legal action as provided in § 2.2-4364, prior to receipt of the public body's decision on the claim, unless the public body fails to render such decision within the time specified in the contract or, if no time is specified, then within the time provided by Code of Virginia § 2.2-4363(C). A failure of the public body to render a final decision within such time shall be deemed a final decision denying the claim by the public body.

The decision of the public body shall be final and conclusive unless the contractor appeals within six months of the date of the final decision on the claim by the public body by invoking the public body's administrative procedures, if any, or in the alternative by instituting legal action as provided in § 2.2-4364.

I recommend adoption of proposed Ordinance No. 05-24 to incorporate the changes noted into the County's Procurement Policy, effective upon passage of the ordinance.

White/3737

Attachment:

- Proposed Ordinance No. 05-24